oned as part of the period required by statute to constitute desertion and thus allowed the offender as a *locus pœnitentiæ*. *Kirkpatrick* v. *Kirkpatrick, supra; Storrs* v. *Storrs*, 68 N. H. 118, 34 Atl. 672; *Blandy* v. *Blandy*, 20 App. D. C. 535.

Insanity at the time of the commission of the acts constituting the alleged ground for divorce is a full defense. *Broadstreet* v. *Broadstreet*, 7 Mass. 474. Cruel and inhuman treatment do not warrant a divorce when such treatment is the result of insanity. *Tiffany* v. *Tiffany*, 84 Iowa 122, 50 N. W. 554. Failure by a husband to provide for and support his wife is not a ground for divorce, though made so by statute, where such failure arises from insanity. *Baker* v. *Baker*, 82 Ind. 146.

The decision in the instant case seems to be based on sound principles of judicial logic, and is in accord with the weight of authority on the subject.

EVIDENCE—PERJURED TESTIMONY—PRIVILEGE.—The defendant gave evidence before a grand jury, and upon this evidence an indictment was found against the plaintiff. The evidence in question was false and was known by the defendant, when he gave it, to be false. The accused was acquitted of the charge, and later brought an action of malicious prosecution against the defendant. The question arose as to whether the false testimony was privileged. *Held*, it is not privileged. *Kintz* v. *Harriger* (Ohio), 124 N. E. 168. See NOTES, p. 120.

MASTER AND SERVANT—WORKMEN'S COMPENSATION ACT—RELEASE OF CLAIM.—A stone mason, in the course of his employment by a granite company, had lime splashed into his eyes. The injury which followed necessitated the removal of one eye; and a settlement for compensation was made by the workmen with his employer and the insurer of the employer, on the mutual assumption that he was entitled to compensation for the loss of only one eye. A release of all further claims against his employer and the insurer was executed by the employee on the same assumption. Later, it developed that the workman's other eye had been severely burnt. An action was brought, under the State Workmen's Compensation Act, for compensation for this further injury. *Held*, the previous release constitutes no bar to the action. *Zinken* v. *Melrose Granite Co.* (Minn.), 173 N. W. 857.

Workmen's Compensation Acts, as a rule, encourage agreements between employers and employees dealing with compensation for injuries arising from accidents. It is usually provided that such agreements must be filed with, and approved by, the Industrial Accident Boards created by the Acts before becoming final, and that no agreement by an injured employee to waive his rights to compensation under the Act shall be regarded as valid.

Where the widow of an employee of a creamery company made an agreement with the creamery company and its insurer, whereby she was to sue, for the death of her husband, the concern whose motor truck collided with the creamery company's wagon and caused his death, and that if what she recovered should exceed the statutory

amount payable by the employer and the insurer under the Compensation Act, she should surrender all claims against them, and if she recovered less, they should pay her the difference between her recovery and the statutory amount; and where this agreement was not filed with the State Industrial Board, such an agreement was held to be void. And the court expressed its opinion that the Board would have withheld its approval to such an agreement, deeming it illegal because in violation of the spirit of the Act, which compelled the widow to choose between her rights against the employer under the Act and an action against the actual tort-feasor. *Dettloff* v. *Hammond, Standish & Co.*, 195 Mich. 117, 161 N. W. 949.

Where a Compensation Act declared that no release should be valid unless it provided for the full statutory compensation for the injury sustained, and nervous prostration resulted after a time from an injury received by a woman in the course of her employment, she was allowed to recover for such suffering, although she had previously received compensation for the actual physical injury, and had released her employer from all liability on account of the injury. In this case the release had not been submitted to the Industrial Accident Commission. *Employee's Credit Co.* v. *Industrial Accident Com.*, 177 Cal. 46, 169 Pac. 1001.

Although, where an agreement is reached between employer and employee as to the amount of compensation, which agreement is approved by the Industrial Accident Board, the parties are denied the right of further arbitration, the necessity for which is eliminated, the case may be re-opened by petition to the Board, if subsequent matters warrant such action. *In re Stone* (Ind.), 117 N. E. 669. Thus, where an employee was, in accordance with an agreement between him and his employer, approved by the State Board, compensated for an injury which had healed sufficiently to allow him to return to work, and, afterwards, partial paralysis and Bright's disease set in as a result of the injury, upon petition to the Board, further compensation was granted. *Curtis* v. *Slater Const. Co.*, 194 Mich. 259, 160 N. W. 659.

Where the Compensation Act does not provide that a release of a claim under it shall be invalid unless it provide for the full compensation allowed by the Act for the injury in question, and an employer and an employee agree upon a certain sum as compensation for an injury received by the latter in the course of his employment, and a release is executed to the employer in consideration of his payment, the sum stipulated for is sufficient consideration to support the agreement as an ordinary contract. It makes no difference that the company is, in fact, under a legal obligation to pay the agreed amount, provided it does not admit the obligation. The settlement of the controversy constitutes a valid consideration. *Odrowski* v. *Swift & Co.*, 99 Kan. 163, 631, 162 Pac. 268. See 1 ENC. L. & P. 626, 636.

Under the Kansas Workmen's Compensation Act, a clear distinction is recognized, in one particular, between an award of the Industrial Accident Board or a court judgment fixing an award, on the one hand, and a voluntary settlement and release by the parties, on the

other. Gross inadequacy of compensation, in the absence of fraud or mutual mistake as to the extent of the employee's injuries, is not a ground for setting aside the latter. *Dotson* v. *Proctor & Gamble Mfg. Co.*, 102 Kan. 248, 169 Pac. 1136. But it would seem that, as to arbitral awards, the converse is true. See *dictum* in *Weathers* v. *Kansas City Bridge Co.*, 99 Kan. 632, 162 Pac. 957.

A release given in full settlement of all claims under the Workmen's Compensation Act, and approved by the Industrial Accident Board, will not bar an action by the injured employee to recover additonal compensation to which he is entitled under the Compensation Act, where the employer and his insurer fail to report to the Board the full extent and nature of the injury sustained. *Green* v. *Buick Motor Co.* (Mich.), 166 N. W. 1028.

MUNICIPAL CORPORATIONS—INVALID BONDS—LIABILITIES TO HOLDERS.—The City of Henderson, by its council, authorized the mayor and clerk to issue bonds for street improvements. Y purchased from the mayor some of the bonds so issued, both parties believing that they were valid. Y transferred the bonds to R in consideration for a house and lot. The bonds were issued under an unconstitutional statute. R brought action against Y to recover the face value of the bonds, and Y, by petition, made the municipality a party defendant, and asked for the recovery from it of the money paid for the bonds. *Held*, Y can recover. *City of Henderson* v. *Redman* (Ky.), 214 S. W. 809.

Bonds issued under an unconstitutional statute are invalid. *Central Branch Union Pacific R. Co.* v. *Smith*, 23 Kan. 745; *Whaley* v. *Gaillard*, 21 S. C. 560. But where one, in good faith, lends money to a municipal corporation to be used for a corporate purpose, and takes bonds therefor, he is entitled to recover it in an action in assumpsit, if the bonds prove to be void for want of power in the corporation to issue them. *Fernald* v. *Town of Gilman*, 123 Fed. 797. And a purchaser from the person who innocently takes the invalid paper from the municipality, is entitled to recover the money paid by the latter for the bonds. *Chelsea Savings Bank* v. *City of Ironwood*, 66 C. C. A. 230, 130 Fed. 410; *Fernald* v. *Town of Gilman*, *supra*.

If a municipal corporation has authority to issue bonds, and it does issue bonds, which are void for some hidden defect, the consideration for the loan thus failing, the corporation will be held liable on an implied contract to repay the purchase price with interest thereon. *Louisiana* v. *Wood*, 102 U. S. 294. See *Read* v. *Plattsmouth*, 107 U. S. 568. In such a case, the city, with legislative authority to borrow, is in the market in the capacity of a borrower and receives the money in that character, even though the transaction assume the form of a sale of its securities. *Louisiana* v. *Wood*, *supra*; *Hoag* v. *Town of Greenwich*, 133 N. Y. 152, 30 N. E. 842. The action by the holders of the bonds against the city is justified, under the forms of the common law, on the ground that it is an action for money of the plaintiff had and received by the city, being money paid upon a consideration which happens to fail, or money paid by mistake, or money got through imposition. See *Louis-*